

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-18-RJC**

In re:)	
)	
WELLESLEY K. CLAYTON,)	
)	
Debtor.)	
<hr/>)	<u>ORDER</u>
)	
WELLESLEY K. CLAYTON,)	
)	
Appellant,)	
)	
v.)	
)	
M&T BANK,)	
)	
Appellee.)	
<hr/>)	

THIS MATTER comes before the Court following the filing of Appellee M&T Bank’s (“Appellee”) Motion to Dismiss Appeal for Appellant’s Failure to File Timely Notice of Appeal (“Motion to Dismiss”). (Doc. No. 2).

Appellant Wellesley K. Clayton (“Appellant”) filed his Notice of Appeal from an order entered in Bankruptcy Case number 15-30573 on January 7, 2016. (Bankr. Case No. 15-30573, Doc. No. 162). His appeal seeks review of an order entered on December 18, 2015, by Bankruptcy Judge Laura T. Beyer in Appellant’s bankruptcy case. (Bankr. Case No. 15-30573, Doc. No. 161). Appellee filed its Motion to Dismiss on January 14, 2016. (Doc. No. 2).

Federal Rule of Bankruptcy Procedure 8002(a) indicates that an appellant is required to file a notice of appeal within fourteen (14) days after the entry of the judgment, order, or decree being appealed. The timely filing of a notice of appeal is mandatory to invoke the appellate jurisdiction of a district court, and a party’s failure to do so deprives the district court of

jurisdiction to review a bankruptcy court's order. Smith v. Dairymen, Inc., 790 F.2d 1107, 1110–11 (4th Cir. 1986); see also In re Berman-Smith, 737 F.3d 997, 1000–01 (5th Cir. 2013).

When a time limit is jurisdictional, it may be considered at any time as a jurisdictional bar to review. In re Berman-Smith, 737 F.3d at 1001. The Court finds that Appellant failed to file his appeal within the statutory time period allowed. Therefore, this Court lacks jurisdiction to review the Bankruptcy Court's order, and Appellant's appeal must be dismissed.

IT IS, THEREFORE, ORDERED that Appellant's appeal of the Bankruptcy Court's December 18, 2015 Order in Bankruptcy Case number 15-30573 is **DISMISSED**. The Clerk of Court is directed to close this matter and advise the Bankruptcy Court in writing of the dismissal of this appeal.

Signed: January 20, 2016

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

